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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,840	03/26/2004	Gidcon Fostick	Q80048	8142
23373 7590 10/02/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER HASHEM, LISA	
			ART UNIT 2614	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/809,840

**Applicant(s)**

FOSTICK ET AL.

**Examiner**

Lisa Hashem

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 January 1934 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12-15 recites the limitation "said voice cue". There is insufficient antecedent basis for this limitation in these claims.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-34 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,721,401 by Lee et al, hereinafter Lee.

Regarding claim 1, Lee discloses apparatus (i.e. communication system; col. 5, lines 64-67) for initiating a data session at a remote communication unit (i.e. calling phone) currently connected via a voice session, the apparatus comprising:  
a cue unit for sending via said voice session to said remote unit a cue decodable as an instruction to start a data session (i.e. sending a menu interface), and an address unit for providing data session address information (i.e. destination names) to said data session (col. 1, lines 26-33; col. 6, line 1 - col. 7, line 17).

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Regarding claim 2, apparatus according to claim 1, wherein Lee discloses said address unit is configured to send said data session address information to said remote communication unit (col. 6, line 57 – col. 7, line 23).

Regarding claim 3, apparatus according to claim 2, wherein Lee discloses said address unit is further configured to send session identification information together with said data session address information to said remote communication unit (col. 6, line 57 – col. 7, line 23).

Regarding claim 4, apparatus according to claim 2, wherein Lee discloses said address unit is associated with said cue unit and is configured to send said data session address information along with said cue within said voice session (col. 6, line 57 – col. 7, line 23).

Regarding claim 5, apparatus according to claim 3, wherein Lee discloses said address unit is associated with said cue unit and is configured to send said data session address information and said session identification information along with said cue within said voice session (col. 6, line 57 – col. 7, line 23).

Regarding claim 6, apparatus according to claim 1, wherein Lee discloses said address unit is configured to enter said data session address information along with caller identification information in a database (col. 6, line 57 – col. 7, line 23).

Regarding claim 7, apparatus according to claim 6, wherein Lee discloses said cue is decodable at said remote communication apparatus to access said database, said caller identification information allowing said data session address information to be retrieved from said database to define said data session (col. 6, line 57 – col. 7, line 40).

Regarding claim 8, apparatus according to claim 1, Lee discloses further configured to issue a command from said data session to restart said voice session (col. 6, line 57 – col. 7, line 40).

Regarding claim 9, apparatus according to claim 8, wherein Lee discloses said command is a dialing action initiator (col. 6, line 57 – col. 7, line 40).

Regarding claim 10, apparatus according to claim 1, wherein Lee discloses said data session comprises a menu-based user interface (col. 6, line 57 – col. 7, line 40).

Regarding claim 11, apparatus according to claim 1, wherein Lee discloses said data session comprises a graphically-based user interface (col. 7, lines 4-23).

Regarding claim 12, apparatus according to claim 1, wherein Lee discloses said voice cue comprises a sequence of DTMF tones (col. 6, line 57 – col. 7, line 3).

Regarding claim 13, apparatus according to claim 1, wherein Lee discloses said cue unit is operable to send said voice cue to all connecting remote communication devices (col. 2, lines 25-30; col. 5, lines 47-67).

Regarding claim 14, apparatus according to claim 1, wherein Lee discloses said cue unit is associated with a database of communication device identity data to send said voice cue only to a subset of remote communication devices indicated by said database (col. 2, lines 25-30; col. 5, lines 47-67).

Regarding claim 15, apparatus according to claim 1, wherein Lee discloses said cue unit is configured to send said voice cue only if said data session is indicated as being required by said remote communication device (col. 6, line 57 – col. 7, line 3).

Regarding claim 16, apparatus according to claim 1, wherein Lee discloses said data session comprises one of a group of applications comprising visual directory assistance, visual shopping and visual voicemail deposit (col. 1, lines 26-33; col. 6, lines 24-39; col. 7, lines 13-16).

Regarding claim 17, Lee discloses a client for a smart telephony device (i.e. calling phone) capable of supporting a data session, the client comprising:  
a decoder for decoding a received voice command to transfer to a data session (col. 6, lines 1-15), and a data session launcher, associated with said decoder, for launching a data session at said smart telephony device in response to the received voice command (col. 6, lines 1-67; col. 7, lines 27-40).

Regarding claim 18, the client of claim 17, wherein Lee discloses the voice command includes encoded data session address information and said decoder is configured to decode the data session address information from said command and for providing the decoded data session address information to said data session launcher (col. 6, lines 1-67).

Regarding claim 19, the client of claim 17, wherein Lee discloses said data session launcher is configured to automatically consult a database associated with said received voice session command to associate data session address information with said data session (col. 6, lines 1-67).

Regarding claim 20, Lee discloses a method of launching a data session at a remote telephony device (i.e. calling phone) that has connected using a voice session (Fig. 2), the method comprising:  
issuing a data session launch command via said voice session to said remote telephony device,

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and issuing data session address information for use in association with a data session launched in consequence of said command (col. 6, line 1 - col. 7, line 12).

Regarding claim 21, the method of claim 20, Lee discloses further comprising sending said data session address information to said remote telephony device together with said command as part of said voice session (col. 7, lines 4-17).

Regarding claim 22, the method of claim 21, Lee discloses further comprising sending session identification information together with said data session address information to said remote telephony device (col. 7, lines 4-26).

Regarding claim 23, the method of claim 20, Lee discloses further comprising placing said data session address information in a database and indexing said data session address information with caller identification information (col. 6, lines 25-39; col. 7, lines 24-26).

Regarding claim 24, the method of claim 23, Lee discloses further comprising accessing said database using said caller identification information of said remote telephony device to obtain said data session address information (col. 7, lines 24-40).

Regarding claim 25, the method of claim 24, Lee discloses further comprising initiating a data session with said obtained data session address information (col. 7, lines 24-40).

Regarding claim 26, the method of claim 20, wherein Lee discloses said data session comprises a menu-based user interface (col. 7, lines 4-12).

Regarding claim 27, the method of claim 20, wherein Lee discloses said data session comprises a graphically-based user interface (col. 7, lines 4-23).

Regarding claim 28, the method of claim 20, wherein Lee said data session comprises a user selection option available to a user at said remote communication unit to return said data session to a voice session (col. 7, lines 4-26).

Regarding claim 29, the method of claim 28, wherein Lee discloses said user selection option comprises a command for activating a dialing action at said remote communication unit (col. 7, lines 4-26).

Regarding claim 30, the method of claim 20, wherein Lee discloses said data session launch command is a voice cue comprising a sequence of DTMF tones (col. 6, line 57 – col. 7, line 3).

Regarding claim 31, the method of claim 20, Lee discloses comprising sending said data session launch command to all connecting remote communication devices (col. 2, lines 25-30; col. 5, lines 47-67).

Regarding claim 32, the method of claim 20, Lee discloses comprising using a database of communication device identity data to send said data session launch command only to a subset of remote communication devices indicated by said database (col. 2, lines 25-30; col. 5, lines 47-67; col. 6, line 40 – col. 7, line 3).

Regarding claim 33, the method of claim 20, Lee discloses comprising sending said data session launch command only if said data session is indicated as being required by said remote communication device (col. 6, lines 1-56).



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Regarding claim 34, the method of claim 20, wherein Lee discloses said data session operates one of a group of applications comprising visual directory assistance, visual shopping and visual voicemail deposit (col. 1, lines 26-33; col. 6, lines 24-39; col. 7, lines 13-16).

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

6. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**

(571) 273-8300 (for formal communications intended for entry)

**Or call:**

(571) 272-2600 (for customer service assistance)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa Hashem whose telephone number is (571) 272-7542. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

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7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lh  
September 25, 2007

FAM TSANG  
SUPERVISOR  
EXAMINER  
R 2600

